

EXHIBIT D

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

CYNTHIA RUSSO, LISA :
BULLARD, RICARDO : Civil No. 17-cv-2246
GONZALES, INTERNATIONAL :
BROTHERHOOD OF ELECTRICAL :
WORKERS LOCAL 38 HEALTH :
AND WELFARE FUND, :
INTERNATIONAL UNION :
OF OPERATING ENGINEERS :
LOCAL 295-295C WELFARE :
FUND, AND STEAMFITTERS :
FUND LOCAL 439, on :
Behalf of Themselves :
and All Others Similarly :
Situated, :
:
Plaintiffs, :
:
v. :
:
WALGREEN CO., :
:
Defendant. :
:

Friday, August 11, 2023

Deposition of LYNETTE HILTON, Ph.D.,
taken virtually via Zoom, with the witness
participating the offices of Econ ONE, 550 South
Hope Street, Suite 800, Los Angeles, California,
beginning at 9:03 a.m. PDT, before Ryan K. Black,
Registered Professional Reporter, Certified
Livenote Reporter and Notary Public in and for
the Commonwealth of Pennsylvania.

1 A. The exclusions in Paragraph 13 a. and
2 b.?

3 Q. Well, they -- what I'm saying is they
4 made changes to the proposed exclusions, correct?

5 A. Correct.

6 Q. And the new proposed exclusions are
7 listed in Paragraph 13 a. and b., correct?

8 A. Correct.

9 Q. You testified in your prior deposition
10 about your understanding of the exclusions, and
11 now I'd like to ask you about your understanding
12 of these revised exclusions.

13 Do you believe you understand the
14 meaning of the revised exclusions?

15 A. Yes.

16 Q. How did you obtain your understanding?

17 A. By both reading the exclusions and
18 having discussions with counsel.

19 Q. Let's look at Paragraph 13 a. It says
20 one of the exclusions is "All federal government
21 entities, including Medicare and Medicaid and
22 their beneficiaries, except for Medicare Part D
23 beneficiary."

24 Did I read that accurately?

25 A. Yes.

1 Q. So in this exclusion, it gives two
2 examples, Medicare and Medicaid. Is Medicaid a
3 federal government entity?

4 A. I don't have an opinion on that.

5 Q. Do you understand whether states
6 administer their own Medicaid programs?

7 A. I have some understanding of that, yes.

8 Q. What is your understanding, that they do
9 or they do not administer their own Medicaid
10 program?

11 A. My understanding is that they're
12 -- they're partially funded by both state and by
13 federal governments.

14 Q. And is it your understanding that
15 the -- that the states administer their own
16 Medicaid programs or that the federal government
17 administates -- administers the state Medicaid
18 program?

19 A. I'm trying to figure out what you mean
20 by "administer" versus "pay."

21 Q. Well, you just said that the Medicaid
22 is both partially state-funded and partially
23 federal-funded, correct?

24 A. Yes.

25 Q. New Mexico has its own Medicaid program,

1 correct?

2 A. I assume so. I don't have any
3 independent knowledge of that.

4 Q. And New York, you would assume, has its
5 own Medicaid program, correct?

6 A. Again, I'd assume so, but I -- I don't
7 know for sure.

8 Q. Do you know who manages the New Mexico
9 Medicaid program?

10 MR. ALEXANDER: Objection to form.

11 THE WITNESS: I don't.

12 BY MR. LEIB:

13 Q. Do you know who administers the New
14 Mexico Medicaid program?

15 A. I don't.

16 Q. And that would -- your answers would be
17 the same if I asked them with regard to New York,
18 correct?

19 A. Correct.

20 Q. Do you understand whether states make
21 their own decisions about what benefits they will
22 provide under Medicaid, subject to federal
23 guidelines?

24 MR. ALEXANDER: Objection to form.

25 THE WITNESS: I don't have an

1 understanding of that.

2 BY MR. LEIB:

3 Q. So you don't know one way or -- or
4 another whether Medicaid is a federal government
5 entity, correct?

6 A. I don't have any independent knowledge
7 of that, no.

8 Q. Are you aware that there's a Federal
9 Workers' Compensation plan?

10 A. I am familiar with that.

11 Q. Is that a federal government entity?

12 A. I don't have knowledge of that.

13 Q. Are you aware that there's a federal
14 employees program, sometimes called Federal
15 Employees Health Benefits Program?

16 A. I -- I don't have any independent
17 knowledge of that.

18 Q. Have you heard of the term FEP?

19 A. Yes.

20 Q. Do you understand what FEP is?

21 A. No.

22 Q. Do you know whether the FEP is a federal
23 government entity?

24 A. I do not.

25 Q. Do you know what TRICARE is?

1 A. I have a general understanding of
2 TRICARE, yes.

3 Q. What is your general understanding of
4 TRICARE?

5 A. It's that part of the government
6 benefits for its healthcare, but it's a very
7 general understanding.

8 Q. It -- did you say it's that part of the
9 government benefits for healthcare?

10 A. It is a healthcare benefit provided by
11 the government.

12 Q. Do you know who it's provided to?

13 A. I just -- no. I was familiar at one
14 point, but, no.

15 Q. Okay. I will inform you that it's
16 the uniformed services healthcare program that's
17 primarily for active-duty service members and
18 their families, National Guard Reserve members
19 and their families and Medal of Honor recipients
20 and their families.

21 I see you shaking your head. Does that
22 refresh your recollection?

23 A. Yes.

24 Q. Do you know whether TRICARE is a federal
25 government entity?

1 A. I don't.

2 Q. What about Veteran's Administration
3 plans? Do you know if those are federal
4 government entities?

5 A. I don't.

6 Q. So what is your understanding of what a
7 federal government entity is?

8 A. An entity that is funded by the federal
9 government.

10 Q. Funded in full or -- or -- does it have
11 to be funded in full by the federal government to
12 be a federal government entity?

13 A. I don't have an opinion about that.

14 Q. Based on what you just said, why is it
15 that you don't have an opinion on whether TRICARE
16 is a federal government entity?

17 MR. ALEXANDER: Objection to form.

18 THE WITNESS: I don't need to have a
19 opinion about that. It's not part of my -- it's
20 not necessary for my analysis or my methodology.
21 BY MR. LEIB:

22 Q. Why is it not necessary for your
23 methodology?

24 A. Because I'm going to be -- I rely on the
25 data, on what Walgreens has characterized these

1 payers as, either commercial, union, Medicare
2 Part D, state-funded, et cetera.

3 Q. Well, if it says TRICARE, what would you
4 do with it?

5 MR. ALEXANDER: Objection to form.

6 BY MR. LEIB:

7 Q. I'm gonna -- I'm gonna restate the
8 question again.

9 If in Plan Type in Walgreens' data it
10 says TRICARE, would you characterize that as a
11 federal government entity or no?

12 MR. ALEXANDER: Objection to form.

13 THE WITNESS: So, Michael, under Plan
14 Type if it says TRICARE?

15 BY MR. LEIB:

16 Q. Yes. I'm sorry. Under Plan Type.

17 A. Okay. That would be excluded because
18 I'm only including commercial, union, Medicare
19 Part D. And, in addition, the Federally Funded
20 Payer Indicator from the payer map has to also be
21 known.

22 Q. And that -- that part where you --
23 Federal Funded Payer Indicator having to be,
24 what, checked off in the -- in the data? Is that
25 how you would phrase it?

1 MR. ALEXANDER: Objection to form.

2 THE WITNESS: And let me -- and let me
3 clarify. For plan types marked as commercial or
4 union, I have the additional requirement that the
5 federally funded indicator -- I apologize, but
6 it's a long -- very long name -- is also N-O.
7 And then I also indicate those where Management
8 Equals Medicare Part D.

9 BY MR. LEIB:

10 Q. I'm sorry. For ones that are commercial
11 or union, did you say you also required the
12 federally funded indicator to be "known"? Is
13 that what you said? I'm not sure I understand
14 that.

15 A. Sorry. For those that are marked
16 commercial or union in Plan Type, I require the
17 Federally Funded Payer Indicator to be equal to
18 N, which is no. N-O. No.

19 I'm -- I'm getting some feedback. I
20 don't know if anyone else is.

21 THE REPORTER: Yes, I am. It's bad,
22 too. Maybe the tech can help us with that.

23 THE WITNESS: Okay.

24 MR. LEIB: Why don't we go off the
25 record.

1 THE VIDEOGRAPHER: The time now is 9:37
2 a.m. We're going off the record.

3 (Recess taken.)

4 THE VIDEOGRAPHER: The time now is 9:39
5 a.m. We're going back on the record.

6 Please proceed, Counsel.

7 BY MR. LEIB:

8 Q. Okay. Let's look at b. in Paragraph 13
9 which states, All state government entities and
10 their beneficiaries, except for state political
11 subdivisions, such as, for examples -- for
12 example, cities, towns, municipalities, counties
13 and school districts and their beneficiaries.
14 Did I read that correctly?

15 A. Yes.

16 Q. And the prior definition -- or the
17 prior exclusion in this particular section
18 said, "government-funded entities," as opposed to
19 all state government entities. Do you know what
20 the difference is between government funded
21 entities and government entities?

22 A. I don't have the prior definition in
23 front of me, but I can take your word for it.

24 I'm -- no, I don't know the -- the
25 difference between those.

1 Q. Do you have an understanding of what a
2 state government entity is?

3 A. My understanding is it's entities that
4 are funded by the state, or associated with the
5 state, I should say.

6 Q. Well, what do you mean by "associated
7 with the state"?

8 A. Some relationship to the state.

9 Q. So they don't have to be fully funded by
10 the state to be a state government entity; is
11 that correct?

12 MR. ALEXANDER: Objection to form.

13 THE WITNESS: I don't have an opinion
14 about that.

15 BY MR. LEIB:

16 Q. Well, you first said -- when answering
17 my question of whether you had an understanding
18 of what a state government entity is, you first
19 said "they are funded by a state," and then you
20 said "or associated with the state." I took that
21 to mean that you were changing your answer. Are
22 those -- were you changing your answers or were
23 those two different things, they're either funded
24 by the state or they're associated with the
25 state?

1 MR. ALEXANDER: Objection to form.

2 BY MR. LEIB:

3 Q. I'm sorry. Were they -- did you mean
4 that they're -- did you mean to change your
5 answer to associated by [sic] the state, rather
6 than funded by the state, or did you mean to say
7 that they have to be either funded by the state
8 or associated with the state?

9 MR. ALEXANDER: Objection to form.

10 THE WITNESS: I was intending to -- to
11 say that they are associated with the state.

12 BY MR. LEIB:

13 Q. So it's no longer whether they're funded
14 by state. It's whether they're associated with
15 the state. Is that correct? Is that your
16 understanding?

17 MR. ALEXANDER: Objection to form.

18 THE WITNESS: I believe funding would
19 be -- funded would also be -- would cover that,
20 as well.

21 BY MR. LEIB:

22 Q. So what would be something that was
23 associated with the state but not funded by the
24 state?

25 A. I don't -- I don't have any examples of

1 that.

2 Q. When we talked about federal government
3 entities, you didn't say something that was
4 associated with the federal government.
5 Did you mean to?

6 A. Yes. I think that could be included, as
7 well.

8 Q. But you don't know of anything that
9 would be associated with a government entity but
10 not funded by the government entity; is that
11 correct?

12 A. Yes.

13 Q. Let's say a government contractor is
14 funded by the federal government in part. Are
15 they a federal government entity?

16 MR. ALEXANDER: Objection to form.

17 THE WITNESS: I don't have an opinion
18 about that.

19 BY MR. LEIB:

20 Q. Is the federal contractor associated
21 with the federal government?

22 MR. ALEXANDER: Objection to form.

23 THE WITNESS: I don't have an opinion
24 about that.

25 BY MR. LEIB:

1 understanding?

2 A. What's written here in 13 b. and
3 conversations with counsel.

4 Q. Well, what's written here in b. gives
5 certain examples, correct?

6 A. Yes.

7 Q. And those examples are cities, towns,
8 municipalities, counties and school districts.
9 Are there any other examples that you're
10 -- you're aware of a TPP that would be a state
11 political subdivision that's not listed as one of
12 the examples in b.?

13 A. Not that I'm aware of.

14 Q. What about a state public university,
15 would that be a state government entity?

16 A. I don't have an opinion about that.

17 Q. What about a -- a state public
18 university, would it be a state political
19 subdivision?

20 A. I don't have an opinion about that.

21 Q. Well, how would you make a determination
22 as to whether a state public university is
23 included or excluded from the class if you don't
24 have an understanding of whether it's a state
25 government entity?

1 A. As I answered with respect to
2 the federal government entity, I would
3 rely on Walgreens' data and their -- their
4 characterization under plan type. And then with
5 the state and the federally funded indicator as
6 it is relevant. But the -- under plan type, they
7 have state-funded, state Medicaid, some of these
8 other designations. And all of those would be
9 excluded based on my methodology where I include
10 only commercial, union and Medicare Part D. And
11 then the added filter on the federally funded.

12 Q. Well, that initial federally funded
13 filter has nothing to do with state government
14 entities, correct?

15 A. Right. I -- I'm sorry. I wasn't done
16 with my answer.

17 I was going to add that I would also
18 -- I believe that these entities themselves would
19 be able to self-identify and they know whether
20 they're a -- a state-funded entity, a federally
21 funded entity or a political subdivision, much
22 the way that a PBM would know who was affiliated
23 with -- you know, if -- if somebody was
24 affiliated with a PBM, that sort of thing.

25 Q. Well, how would an entity self-identify?

1 MR. ALEXANDER: Objection to form.

2 THE WITNESS: I -- I'm not sure I
3 understand the question.

4 BY MR. LEIB:

5 Q. You just said that you weren't done
6 with your answer and that you were going to
7 add, I believe, that those -- that these entities
8 themselves would be able to self-identify. What
9 do you mean by that?

10 A. An entity -- I mean that an entity
11 would know -- whether they are subject to this
12 exclusion or not, they would know whether there
13 were a political -- a state political subdivision
14 or a state government entity or a federal
15 government entity.

16 Q. Well, on the one hand you're saying
17 you're relying on the data, and on the other hand
18 you're saying that entities can self-identify.
19 Which is it?

20 A. Well, I'm relying on the data.
21 Further down the road if there's some kind of an
22 allocation that needs to be done, then they would
23 also be able to self-identify.

24 Q. Is there anywhere in your amended report
25 -- rebuttal report that you talk about entities

1 self-identifying? And I'm -- I'm -- I'm asking
2 you from your memory because we don't have the
3 time in this deposition for you to go through.
4 Do you remember anywhere stating anything about
5 self-identification in your amended report?

6 A. I -- I -- I guess I don't feel
7 comfortable answering that question without
8 looking. I -- I think there might be something,
9 but I -- I don't recall.

10 Q. If there's not anything in the -- in the
11 -- in the amended report on self-identification,
12 do you still intend to testify about that at
13 trial?

14 MR. ALEXANDER: Objection to form.

15 THE WITNESS: I guess I don't know the
16 answer to that. To the extent that I would be
17 limited to what's in the report, then I would be
18 limited to what's in the report.

19 BY MR. LEIB:

20 Q. Is -- is a public hospital district that
21 has taxing authority a state government entity?

22 MR. ALEXANDER: Objection to form.

23 THE WITNESS: I don't have an opinion
24 about that.

25 BY MR. LEIB:

1 Q. Is a water district that has taxing
2 authority and provides health insurance to
3 employees a state government entity?

4 MR. ALEXANDER: Objection to form.

5 THE WITNESS: I don't have an opinion
6 about that.

7 BY MR. LEIB:

8 Q. Are the Chicago Public Schools a state
9 government entity?

10 A. I don't have an opinion about that.

11 Q. Are the Chicago Public Schools a state
12 political subdivision?

13 A. I don't have an opinion about that.

14 Q. And I assume you don't have opinions
15 about the Milwaukee Public Schools, the City of
16 Chicago or the Cook County employees either; is
17 that correct?

18 MR. ALEXANDER: Object to form.

19 THE WITNESS: That's correct.

20 BY MR. LEIB:

21 Q. What about agencies such as the New
22 Mexico Children Youth and Families Department?
23 Do you have an opinion about whether they're a
24 state political -- I'm sorry, a state government
25 entity?

1 MR. ALEXANDER: Objection to form.

2 THE WITNESS: I don't.

3 BY MR. LEIB:

4 Q. Legislative bodies, do you have an
5 opinion about whether legislative bodies, such
6 as house members or Senate members, are state
7 government entities?

8 MR. ALEXANDER: Objection to form.

9 THE WITNESS: I don't.

10 BY MR. LEIB:

11 Q. If you look at Paragraph 14 of your
12 report, you point to the fact that Jed Smith
13 provides examples in Table 3 and Table 10 of his
14 report where he provides examples of TPPs that he
15 claims appear to be government-funded entities
16 that appear in the Walgreens plan data as having
17 a plan type of commercial, correct?

18 A. Yes.

19 Q. And in Paragraph 15 you write that
20 "Mr. Smith fails to take into account that,
21 according to Walgreens' testimony, whether
22 a given third-party payer is commercial or
23 governmental is found in the plan type field
24 in the plan category table," correct?

25 A. Correct.

1 Q. So if the value in the Plan Type
2 field is state-funded, you would exclude that
3 transaction, correct?

4 A. Correct.

5 Q. And that's because it's not commercial,
6 union or Medicare Part D, correct?

7 MR. ALEXANDER: Objection to form.

8 THE WITNESS: Correct.

9 BY MR. LEIB:

10 Q. But if we look at Paragraph 13 of
11 your report -- your amended report, there's an
12 exception to the exception, correct?

13 MR. ALEXANDER: Objection to form.

14 THE WITNESS: I'm sorry. Paragraph 13?

15 BY MR. LEIB:

16 Q. 13 b.

17 A. 13 b. Okay.

18 Q. The revised definition states that while
19 state government entities are generally excluded
20 from the class, state political subdivisions are
21 included in the class, correct?

22 MR. ALEXANDER: Objection to form.

23 THE WITNESS: Correct.

24 BY MR. LEIB:

25 Q. So why do you automatically exclude

1 state-funded -- entities that were referred to as
2 state-funded in the Plan Type?

3 A. Because state-funded is excluded --

4 Q. Yes, but --

5 A. -- under Part D --

6 MR. ALEXANDER: Counsel, please let the
7 witness finish her answer before asking your next
8 question.

9 BY MR. LEIB:

10 Q. Did you have a further answer?

11 A. I'm sorry, Michael. Did you ask a
12 question? I --

13 Q. Well, did you have a further answer?

14 A. Oh, just -- just to the extent -- I'll
15 just repeat. Under 13 b., state entities are
16 excluded. So you asked about state-funded in the
17 Plan Type field, correct?

18 Q. Right. So 13 b., state entities are
19 excluded -- I'm sorry, yeah, state entities are
20 excluded except if they're state political
21 subdivisions, correct?

22 A. Correct.

23 MR. ALEXANDER: Objection to form.

24 THE WITNESS: Sorry.

25 BY MR. LEIB:

1 Q. So I'm going to ask you again, if,
2 in fact, state political subdivisions can be
3 included in the class, why do you automatically
4 exclude state-funded from the class?

5 MR. ALEXANDER: Objection to form.

6 THE WITNESS: It's not my understanding
7 that state-funded is the same as state political
8 subdivisions.

9 BY MR. LEIB:

10 Q. What do you understand state-funded to
11 be?

12 MR. ALEXANDER: Objection to form.

13 THE WITNESS: Based on Walgreens'
14 testimony, I would understand it to be entities
15 that are funded by the state. As the Walgreens
16 testimony says, the values in the plan type field
17 have your common, every day understanding of
18 those words.

19 BY MR. LEIB:

20 Q. Well, in some -- in some states, cities
21 and town receives -- receive state funding,
22 correct?

23 MR. ALEXANDER: Objection to form.

24 THE WITNESS: I don't have an opinion
25 about that.

1 BY MR. LEIB:

2 Q. I'm not asking whether you're giving an
3 opinion about that. I'm asking your knowledge.
4 You know, Dr. Hilton, don't you, that in some
5 states cities receive state funding?

6 MR. ALEXANDER: Objection to form.

7 THE WITNESS: I have no reason to -- to
8 know about that one way or the other, no.

9 BY MR. LEIB:

10 Q. I -- I didn't ask you if you have a
11 reason to know it. I asked you if you know it.
12 Do you know that, in fact, in some states, cities
13 receive state funding?

14 MR. ALEXANDER: Same objection.

15 THE WITNESS: No. I don't.

16 Oh, sorry, Carey.

17 MR. ALEXANDER: That's okay. Go ahead,
18 please.

19 BY MR. LEIB:

20 Q. Do you know in some states school
21 districts receive state funding?

22 MR. ALEXANDER: Objection to form.

23 THE WITNESS: I'm not sure.

24 BY MR. LEIB:

25 Q. Have you ever read about any lawsuits

1 in which it was claimed that there was unequal
2 funding of school districts and minority --
3 minority districts?

4 MR. ALEXANDER: Objection to scope.

5 THE WITNESS: Have I? No, I have not
6 read any lawsuits like that.

7 BY MR. LEIB:

8 Q. Have you ever -- have you ever read
9 about any lawsuits, or heard about any lawsuits,
10 in which poorer districts were trying to receive
11 more state funding for their school district?

12 MR. ALEXANDER: Objection to form.
13 Objection to scope.

14 THE WITNESS: No.

15 BY MR. LEIB:

16 Q. So am I correct to understand that
17 your testimony is that you have no idea whether
18 cities, towns or school districts in any state
19 receive state funding?

20 MR. ALEXANDER: Objection to form.

21 THE WITNESS: I don't -- I don't know.

22 BY MR. LEIB:

23 Q. How could you render an opinion on
24 whether state-funded could potentially be a city,
25 town or school district if you don't know, one

1 way or the other, whether state governments
2 provide funding to cities, towns and school
3 districts?

4 MR. ALEXANDER: Objection to form.

5 THE WITNESS: Like I said before, I'm
6 relying on the data and excluding those where it
7 says state-funded.

8 BY MR. LEIB:

9 Q. I understand you're relying on the data,
10 but do you have a basis for relying on that data
11 if you don't know what state-funded actually
12 means?

13 A. My basis is Walgreens' testimony that
14 it's the common every day understanding of the
15 words that fall under the Plan Type field.

16 Q. Well, does the every day common
17 understanding of the term state-funded
18 automatically exclude the possibility that
19 a city could receive state funding?

20 MR. ALEXANDER: Objection to form.

21 THE WITNESS: I'm not sure how Walgreens
22 would characterize that.

23 BY MR. LEIB:

24 Q. I'm asking how you would, in your every
25 day understanding of those words, understand

1 that. Does the every day common understanding of
2 the term state funding automatically exclude the
3 possibility, in your understanding of how those
4 words are used in the common language, mean that
5 a city could not receive state funding?

6 MR. ALEXANDER: Objection to form.

7 THE WITNESS: I think you might have had
8 some double negatives in there so --

9 BY MR. LEIB:

10 Q. I did. I'm asking you -- I'm asking you
11 how you would, in your every day understanding of
12 those words, understand that. Does the every day
13 common understanding of the term state funding
14 automatically exclude the possibility that a city
15 could receive state funding?

16 MR. ALEXANDER: Objection to form.

17 THE WITNESS: I -- I don't -- I don't
18 know. I -- I'm not really sure what you're
19 asking.

20 BY MR. LEIB:

21 Q. Well, you said your -- your -- Walgreens
22 told you to read the word state-funded in their
23 every day common understanding, correct?

24 MR. ALEXANDER: Objection to form.

25 THE WITNESS: Correct.

1 BY MR. LEIB:

2 Q. Are you able to read words and
3 decide what their common under -- every day
4 understanding are?

5 A. I think so. In most cases, I would say,
6 yes.

7 Q. So in your common every day
8 understanding of the word state-funded, does that
9 exclude the possibility that a city could receive
10 state funding?

11 MR. ALEXANDER: Objection to the form.

12 THE WITNESS: I'm not really -- you
13 keep saying, "does it exclude the possibility."
14 I don't really understand that wording of your
15 question. To me it's state-funded, and that's --
16 as far as I know it means it's got state funding.

17 BY MR. LEIB:

18 Q. Any plan types in Walgreens' data, any
19 values that are filled in in the plan types that
20 you understand to be a state political
21 subdivision?

22 MR. ALEXANDER: Objection to form.

23 THE WITNESS: Not as I sit here.
24 I'd have to look at those values again.

25 BY MR. LEIB:

1 Q. You did look at the values before you
2 filed your amended report, correct?

3 A. Correct.

4 Q. And you tried, to the best of your
5 ability, to come up with the methodology that
6 fulfilled the requirements of this amended
7 proposed class definition, correct?

8 A. Correct.

9 Q. Did you do anything to try and figure
10 out if there are any values in Walgreens' data in
11 the Plan Type field that would identify state
12 political subdivisions?

13 A. Well, I will tell you this: That
14 state -- or "Plan Type of commercial and
15 federally funded equals no" includes some school
16 districts, which would be a political sub -- a
17 state political subdivision.

18 Q. And in that situation, you would exclude
19 that from the class, correct?

20 A No.

21 MR. ALEXANDER: Objection to form.

22 THE WITNESS: Sorry, Carey.

23 No, --

24 MR. ALEXANDER: You can go ahead.

25 THE WITNESS: -- they would be included.

1 BY MR. LEIB:

2 Q. Why would they be included?

3 A. My methodology includes entities
4 where Plan Type Equals Commercial and the
5 Federally Funded Payer Indicator Equals No.

6 Q. Okay. But a school district is not
7 generally federally funded, correct?

8 MR. ALEXANDER: Objection to form.

9 THE WITNESS: I don't know.

10 BY MR. LEIB:

11 Q. There's not a comparable state fund
12 indicator, correct?

13 A. There is -- there's not a dummy variable
14 that has yes-no indicator as the federally funded
15 indicator, but there is, under Plan Types,
16 state-funded or state Medicaid.

17 Q. Yeah. Under Plan Types. But you've
18 talked about a federal funding -- fund indicator
19 and you used that. But there's not an equivalent
20 state fund indicator, correct?

21 MR. ALEXANDER: Objection to form.

22 THE WITNESS: Not that I'm aware.

23 BY MR. LEIB:

24 Q. And so we're talking here about state
25 government entities and an exception for state

1 political subdivision. How do you determine if
2 something that's state-funded should, in fact,
3 be included because it's a state political
4 subdivision?

5 MR. ALEXANDER: Objection to form.
6 Asked and answered.

7 THE WITNESS: Yeah. I think I did
8 answer that. Did you want me to answer it again?

9 BY MR. LEIB:

10 Q. Answer it again.

11 A. By including those that have Plan Type
12 Equal to Commercial, Plan Type Equal to Union and
13 Federally Funded people to "no" on those two
14 particular plan -- plan types, and then also
15 excluding plan -- or, excuse me, including
16 Plan Type Equals Medicare Part D.

17 Q. There's no actual way to know from the
18 Plan Type field in Walgreens' data whether a TPP
19 is a state political subdivision, correct?

20 MR. ALEXANDER: Objection to form.

21 THE WITNESS: As I said earlier, sitting
22 here today I don't recall that there is, but that
23 would be subject to check.

24 BY MR. LEIB:

25 Q. And you make no attempt in your

1 methodology to distinguish between state
2 government entities and state political
3 subdivisions, correct?

4 MR. ALEXANDER: Objection to form.

5 THE WITNESS: Well, as I said, that the
6 state political subdivisions are -- end up being
7 included because they meet the criteria that I
8 dis -- that I discussed earlier.

9 BY MR. LEIB:

10 Q. You have not actually told me how it
11 ends up that state political subdivisions are
12 included. Tell me how you believe state
13 political subdivisions end up being included.

14 MR. ALEXANDER: Objection to form.
15 Argumentative. And asked and answered.

16 THE WITNESS: Limiting Plan Type to
17 commercial and union with the Federally Funded
18 Indicator equal to no ends up in -- keeping
19 school districts in the class.

20 BY MR. LEIB:

21 Q. What about cities? Does it end up
22 keeping cities in the class?

23 A. I didn't check all the various
24 permutations but I did --

25 Q. What about --

1 MR. ALEXANDER: Counsel, please let the
2 witness finish her answer before asking the next
3 question.

4 BY MR. LEIB:

5 Q. What about counties?

6 A. Like I said, I didn't check all the
7 permutations, but I do know that the school
8 districts end up being --

9 MR. LEIB: Let's put up --

10 MR. ALEXANDER: Counsel, please let the
11 witness finish her answer before you ask the next
12 question.

13 MR. LEIB: Put up previously marked
14 Exhibit 534.

15 (Previously marked Exhibit No. 534 was
16 introduced electronically.)

17 BY MR. LEIB:

18 Q. Why don't you look at Page 10 and let me
19 know when you're there.

20 A. (Reviews document.)

21 Okay.

22 Q. All right. This is Table 3 of Smith's
23 report, correct?

24 A. Correct.

25 Q. And you see one of the -- one of the

C E R T I F I C A T E

I do hereby certify that I am a Notary Public in good standing, that the aforesaid testimony was taken before me, pursuant to notice, at the time and place indicated; that said deponent was by me duly sworn to tell the truth, the whole truth, and nothing but the truth; that the testimony of said deponent was correctly recorded in machine shorthand by me and thereafter transcribed under my supervision with computer-aided transcription; that the deposition is a true and correct record of the testimony given by the witness; and that I am neither of counsel nor kin to any party in said action, nor interested in the outcome thereof.

WITNESS my hand and official seal this
14th day of August, 2023



Notary Public